

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA ex rel.
THOMAS J. MILLER,
ATTORNEY GENERAL OF IOWA
99AG25112,

Applicant,

v.

HOMEOWNERSHIP PROTECTION
EDUCATION ALLIANCE, INC.,

Respondent.

Equity No. CE 62528

APPLICATION TO ENFORCE
CIVIL INVESTIGATIVE
DEMAND

FILED
POLK COUNTY IOWA
09 JUL -1 AM 8:47
JULY DISTRICT COURT

The State of Iowa ex rel. Attorney General Thomas J. Miller, though Assistant Attorney General Julia S. Kim, in support of this Application states as follows :

PARTIES AND VENUE

1. Thomas J. Miller is the Attorney General of the State of Iowa, and is expressly authorized by Iowa Code § 714.16(6) (2009) of the Consumer Fraud Act to bring this action on behalf of the State of Iowa.

2. Homeownership Protection Education Alliance, Inc. (hereafter "Homeownership"), on information and belief, is a Florida corporation located at 13660 Wright Circle, Tampa, Florida 33626.

3. Venue is proper in Polk County pursuant to Iowa Code § 714.16(6).

FACTUAL BACKGROUND

4. The Attorney General is investigating whether Homeownership is violating Iowa's law regarding mortgage foreclosure rescue fraud by charging advance payment in exchange for assisting homeowners with mortgage payment problems.

5. On February 6, 2009, the Attorney General served a Civil Investigative Demand and Notice of Intent to Proceed ("CID") on Homeownership by registered mail pursuant to Iowa Code § 714.16(3) - (5). *See* Ex. 1 (a copy of the CID).

6. In connection with the Attorney General's reasons for investigating Homeownership's activities, the CID stated:

Evidence has been obtained sufficient to make it appear that the business practices in which Homeownership Protection Education Alliance, Inc. [] has engaged, is engaging in, or is about to engage in, may have been in violation of the Iowa Consumer Fraud Act while offering, providing or contracting to provide mortgage foreclosure rescue services or other assistance or relief in relation to pending foreclosures. The Attorney General of Iowa believes it to be in the public interest to further investigate such practices.

7. The CID required Homewonership to file a written response, under oath, and to produce documents, by no later than February 27, 2009 (i.e., no later than twenty one calendar days after the service of the CID).

8. On February 13, 2009, the undersigned received a call from a Mark Roberts from Homeownership, inquiring about the CID. Mr. Roberts informed the undersigned that Homeownership applied for non-profit status some time in July of 2008, and stated that he did not feel that the mortgage foreclosure act applied to Homeownership. The undersigned requested that Mr. Roberts send to the Iowa Attorney General's Office any and all documentation that supported his statement that Homeownership was a non-profit corporation. That same day, the undersigned sent an e-mail to Mr. Roberts memorializing the telephone conversation and requesting Homeownership's compliance with the CID. *See* Ex. 2 (a copy of the Feb. 13, 2009 e-mail correspondence from Asst. Atty Gen. Julia Kim to Mark Roberts).

9. On February 24, 2009, the undersigned received an e-mail from Mr. Roberts stating

that he did not “forget” about the request and that the “attorney is gathering the requested information.” *See* Ex. 3 (a copy of the Feb. 24, 2009 e-mail correspondence from Mark Roberts to Asst. Atty Gen. Julia Kim).

10. On March 10, 2009, after no written responses and/or documents were produced, the undersigned e-mailed Mr. Roberts and requested the contact information for the attorney representing Homeownership in this matter. That same day, Mr. Roberts e-mailed the contact information for David F. Chalela, Esq. of The Law Offices of David Chalela, P.A., in Tampa, Florida. *See* Ex. 4 (a copy of the March 10, 2009 e-mail correspondence exchange between Asst. Atty Gen. Julia Kim and Mark Roberts).

11. On March 12, 2009, the undersigned spoke with Attorney Chalela regarding Homeownership’s progress in complying with the CID. Attorney Chalela stated that all requested documents would be produced early next week (the week of March 16). The undersigned asked if Homeownership could produce all information and documents by Friday, March 20, 2009. Attorney Chalela stated that would be fine. That same day, the undersigned sent an e-mail to Attorney Chalela memorializing the telephone conversation. *See* Ex. 5 (a copy of the March 12, 2009 e-mail correspondence from Asst. Atty Gen. Julia Kim to Atty Chalela).

12. On March 19, 2009, the day before all requested information and documents were due, Attorney Chalela faxed a letter to the undersigned requesting that the undersigned state with “some particularity” the basis of the investigation. Attorney Chalela also attached what appeared to be an unsigned, incomplete portion of Homeownership’s Form 1023-Application for Recognition of Exemption. *See* Ex. 6 (a copy of the March 19, 2009 letter with attachment from Atty Chalela to Asst. Atty Gen. Julia Kim).

13. That same day, on March 19, 2009, the undersigned e-mailed Attorney Chalela the Attorney General's position, explained his investigative power, reiterated that Homeownership must produce the documents, and requested that if another extension was necessary to inform the undersigned. *See* Ex. 7 (a copy of the March 19, 2009 e-mail from Asst. Atty Gen. Julia Kim to Atty Chalela).

14. After receiving no response, on April 6, 2009, the undersigned sent a letter to Attorney Chalela stating that, after much delay, Homeownership would have until April 30, 2009 to produce all requested information and documents. The undersigned stated that court intervention would be sought if Homeownership failed to comply by April 30, 2009. *See* Ex. 8 (a copy of the April 6, 2009 letter from Asst. Atty Gen. Julia Kim to Atty Chalela). To date, there has been no response.

15. Iowa Code § 714.16(6) provides:

If a person fails or refuses to file a statement or report, or obey any subpoena issued by the attorney general, the attorney general may, after notice, apply to the Polk county district court. . . and, after hearing, request an order:

a) Granting injunctive relief, restraining the sale or advertisement of any merchandise by such persons.

...

c) Granting such other relief as may be required until the person files the statement or report, or obeys the subpoena.

16. Homeownership's failure to provide the information sought by the CID warrants entry of an order requiring Homeownership to comply with the CID and enjoining it from conducting business in Iowa until Homeownership has complied with the CID.

17. Neither all nor any part of the application for injunctive relief herein has been

previously present to and refused by any court or justice. Iowa R. Civ. P. 1.1504.

18. In an action by the state, no security shall be required of the state. Iowa R. Civ. P. 1.207.

PRAYER

Plaintiff prays the Court grant the following relief:

A. Issue an order directing Homeownership to comply with the CID.

B. Pursuant to Iowa Code § 714.16(6), enjoin Homeownership and its directors, officers, trustees, principals, partners, employees, agents, servants, representatives, subsidiaries, affiliates, successors, assigns, merged or acquired predecessors, parent or controlling entities, and all other persons, corporations and other entities acting in concert or participating with Homeownership who have actual or constructive notice of the Court's injunction from selling or advertising, directly or indirectly, any merchandise, as defined at Iowa Code § 714.16(1)(i), in or from Iowa or to Iowa residents, until Homeownership has fully complied with the Court's directive to comply with the investigative demand; provided, however, that such injunction not restrain Homeownership from making refunds to consumers or from engaging in such non-promotional communications with consumers as are reasonably required to facilitate the making of refunds.

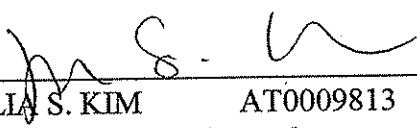
C. Pursuant to Iowa Code § 714.16(11), enter judgment against Homeownership for attorney fees, state's costs and court costs.

D. Retain jurisdiction as necessary to ensure full compliance with the pertinent provisions of the Consumer Fraud Act and with the Court's orders.

E. Grant such additional relief as the Court deems just and equitable.

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa



JULIA S. KIM AT0009813
Assistant Attorney General
Iowa Attorney General's Office
Hoover State Office Building, 2nd Floor
1305 E. Walnut
Des Moines, Iowa 50319
Telephone: (515)281-4325
Fax: (515)281-6771
julia.kim@iowa.gov

IN RE:

HOMEOWNERSHIP PROTECTION
EDUCATION ALLIANCE, INC.
13660 WRIGHT CIRCLE
TAMPA, FLORIDA 33626

Respondent.

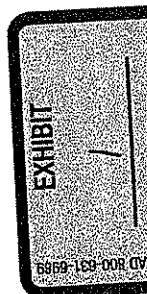
ATTORNEY GENERAL'S
CIVIL INVESTIGATIVE
DEMAND AND NOTICE
OF INTENT TO PROCEED

The State of Iowa ex rel. Attorney General Thomas J. Miller, through Assistant Attorney General Julia Kim, pursuant to the provisions of Iowa Code § 714.16 (2007), commonly known as the Iowa Consumer Fraud Act, directs you to the following Civil Investigative Demand and Notice of Intent to Proceed (hereinafter "CID") pursuant to the above mentioned authority.

Evidence has been obtained sufficient to make it appear that the business practices in which Homeownership Protection Education Alliance, Inc. (hereinafter "Respondent") has engaged, is engaging in, or is about to engage in, may have been in violation of the Iowa Consumer Fraud Act while offering, providing or contracting to provide mortgage foreclosure rescue services or other assistance or relief in relation to pending foreclosures. The Attorney General of Iowa believes it to be in the public interest to further investigate such practices. This CID is being served upon Respondent pursuant to Iowa Code § 714.16(3)-(6).

**TO COMPLY WITH THIS DEMAND FOR INFORMATION, RESPONDENT
MUST FILE A WRITTEN RESPONSE UNDER OATH TO ALL OF THE FOLLOWING
QUESTIONS AND MUST PRODUCE THE DOCUMENTS REQUESTED WITHIN
TWENTY ONE (21) CALENDAR DAYS FROM THE DATE THAT THIS CIVIL
INVESTIGATIVE DEMAND IS RECEIVED. THE SWORN RESPONSE MUST
CONTAIN ALL INFORMATION REQUESTED.**

Any attorney who will represent Respondent in this matter should be promptly advised of



the service of this CID. Failure to fully comply will provide grounds for the Attorney General to apply for an Order in Polk County District Court, upon notice to the Respondent, to grant the relief set forth in Iowa Code section 714.16(6) (2007) which may include injunctive relief restraining certain of Respondent's business practices in the State of Iowa, an order compelling compliance and reimbursement of the costs of such action.

NOTICE OF INTENT TO PROCEED

Service of this Civil Investigative Demand will constitute your only notice, pursuant to Iowa code section 714.16(6), that your failure to fully comply by the 21st calendar day after you receive this Civil Investigative Demand will result in a suit being filed against you for violations of the statutes cited above.

Dated this 6th day of Feb, 2009.

THOMAS J. MILLER
ATTORNEY GENERAL OF IOWA

By: 

JULIA S. KIM

Assistant Attorney General

Consumer Protection Division

1305 East Walnut Street, Second Floor

Des Moines, IA 50319

Telephone: (515) 281-5926

Facsimile: (515) 281-6771

CIVIL INVESTIGATIVE DEMAND

INSTRUCTIONS:

1. Any written or physical information provided in response to this CID must be clearly labeled and specifically identified by reference to the CID paragraph to which it is responsive.

2. Whenever a CID paragraph asks Respondent to "identify," or for the "identity" of a document, the response is to include, but not be limited to, the nature and contents of the document, the "identity" of the addressee (see below), the "identity" of the author and signer, and sufficient information to enable the State to identify it for purposes of a subpoena duces tecum.

DEFINITIONS:

1. The term "Respondent(s)" shall mean and include any and all names under which Homeownership Protection Education Alliance, Inc. has conducted business, and any entity owning, owned, operated or controlled by Homeownership Protection Education Alliance, Inc., as well as any predecessor or successor entity, or any employee, agent, representative, affiliate, assignor, or subsidiary of Homeownership Protection Education Alliance, Inc. A request for information from or about "you" or "your" or "Respondent" means Homeownership Protection Education Alliance, Inc. unless the context otherwise requires.

2. The term "person" shall include individuals (natural persons), as well as firms, associations, partnerships, corporations and other business entities. A request to "identify," or for the "identity" of, a person is deemed to include, at a minimum, a request for the name of such person, the person's present business (and residence, where applicable) address, or the last known business (and residence, if applicable) address if the current address is unknown, and the last known business (and, where applicable, residential) telephone number. Specific CID paragraphs may request additional information as well.

3. The terms "customer" or "consumer" shall mean and include a person who has been solicited by Respondent(s) relating to services, who has given anything of value to Respondent for services, has entered into an oral or written agreement with Respondent for the provision of services, or is obligated to Respondent through the assignment of any oral or written agreement. "Customer" or "consumer" includes a prospective or actual customer, member, enrollee, client or any other type of account.

4. The terms "related to", "relating to", and "evidencing" shall mean and include any and all information that in any manner or form is relevant in any way to the subject matter in question, including without limitation, all information, directly or indirectly which contains, records, reflects, summarizes, evaluates, refers to, indicates, comments upon or discusses the subject matter or that in any manner states the background of, or were the basis or bases for, or that records, evaluates, comments upon, relates to, or were referred to, relied upon, utilized, generated, transmitted, or received in arriving at your conclusion(s), opinion(s), estimate(s), position(s), decision(s), belief(s), or assertion(s) concerning the subject matter in question.

5. The term "advertisement" shall include any and all attempts by publication, dissemination, solicitation, or circulation to induce directly or indirectly any person to enter into any obligation; or acquire or transfer any title or interest in any merchandise.

6. If the use of the words "and," "or" or "and/or" create any doubt about the inclusiveness of a specific CID paragraph, adopt the meaning resulting in the provision of more, rather than less, information. If the use of the word "any" creates any doubt about the inclusiveness of a specific CID paragraph, adopt the meaning resulting in the provision of more, rather than less, information, by construing, for example, "any" as synonymous with "every."

7. The term "payment" shall include any form of payment by a consumer including, but not limited to, cash, check or other bank draft, money order, automatic account withdrawal or electronic fund transfer. The term "payment" shall also include a wage assignment, a lien of any type on real or personal property, or other security to secure the payment of compensation.

8. The term "services" includes, but is not limited to, any mortgage foreclosure consultant services (as defined in the Acts of the 82nd Iowa General Assembly, 2008 Session, chapter 1125, section 1, paragraph 3) or any foreclosure reconveyance (as defined in the Acts of the 82nd Iowa General Assembly, 2008 Session, chapter 1125, section 10, paragraph 4) offered or provided by Respondent.

9. The terms "documents" and "documentary material" shall mean and include any medium upon which intelligence or information is recorded or from which intelligence or information can be recorded, retrieved, or perceived including, but not limited to, print-out sheets, tapes, computer disks, movie film, slides, phonograph records, photographs, pictures, microfilm, microfiche, notes, letters, memoranda, ledgers, worksheets, records, books of account, accounting records, brochures, circulars, advertisements, proofs, sheets, books, magazines, reprints, summaries, reports, studies, projections, notebooks, diaries, calendars, appointment books, registers, graphs, charts, sketches, drawings, plans, tables, calculations, specifications, analyses, intercorporate communications, papers, writings, agreements, contracts, purchase orders, acknowledgments, receipts, shipping papers, checks, invoices, authorizations, budgets, schedules, transcripts, correspondence, drafts, telegrams, cables, telexes, e-mails, website content, memoranda of telephone conversations, minutes of meetings, drafts of any of the foregoing which are non-identical because of marginal notations or otherwise, and other documents as defined in Iowa R. Civ. P. 1512.

9a. If any documentary material responsive to any paragraph of this Civil Investigative Demand was, but no longer is, in Respondent's possession, custody or control, for each such item state whether:

- a. it is missing or lost;
- b. it has been destroyed;
- c. it has been transferred, voluntarily or involuntarily to another; or
- d. it has been otherwise disposed of.

9b. In the event Respondent does not have present possession, custody or control of the requested documents due to one of the circumstances referred to in (a) through (d) above, explain

the circumstances surrounding such disposition and all persons having knowledge thereof.

9c. "Identify" any person(s) directing or authorizing the disposition of the items discussed in 9b above and the date(s) of the direction or authorization. Identify all such documentary material by listing for each item the type of documentary material (letter, memorandum, photograph, etc.), date, author, and recipient. "Identify" person(s) to whom copies were furnished or who otherwise obtained or saw copies. Describe the subject matter of the documentary material, present location and custodian if known, and whether the documentary material or any copies are still in existence.

SCOPE: Unless otherwise indicated in connection with a particular CID paragraph, the period of time for which information is sought is January 1, 2007 to the present.

INQUIRIES TO Homeownership Protection Education Alliance, Inc. :

1. "Identify" all persons who drafted or assisted in drafting the answers to these questions and/or assisted in producing the requested documents. [NOTE: As stated in the previously provided list of definitions, the definition of "identify" includes name, position, address, telephone number, etc.]

2. Provide background information on Respondent, including:

- a. The correct legal name of Respondent and the type of business organization (e.g., corporation, partnership, etc.);
- b. The date and location of creation, origination or incorporation and the "identity" of the creators or incorporators;
- c. The nature of Respondent's business, including each area of endeavor whether for a business, charitable, profit or non-profit purpose. Specify all of the names, logos, trademarks, trade names, patents or copyrights Respondent uses or has used relating to each area of endeavor, and state the date(s) during which Respondent has conducted each area of endeavor or business;
- d. The street addresses and telephone numbers for all business properties, including main and branch offices, used by Respondent, with a brief description of the business operations actually conducted at each location and the date(s) each address and telephone number was used. The answer to this question should include all addresses to which consumers have been told to payment for Respondent's services, all addresses to which consumers have, in fact, made payment to, and all telephone numbers including toll-free numbers;
- e. The "identity" of Respondent's registered agent; and
- f. The Respondent's Internal Revenue Service tax identification number.

3. List all names under which Respondent has conducted business, including aliases, trade names, alternate business names, or the names of any affiliated or subsidiary business entities. ~~Include in this answer all business names to which consumers have been told to make payment to for Respondent's services and all other names to which "customers" have, in fact, made payment.~~

4. Name all geographical areas in which Respondent has done business, including each state in the United States, and the date(s) Respondent began doing business in that geographical area. "Doing business" includes, but is not limited to, advertising, marketing, promoting, offering for sale, selling, buying, reselling, financing, facilitating or otherwise providing services.

5. "Identify" all current and former owners, officers, directors, shareholders, partners, investors and managerial agents of, or for, Respondent since Respondent's start, creation, origination or incorporation. For each person "identified", state the following:

- a. The person's job title, date of birth and social security number;
- b. The date(s) of employment or affiliation;
- c. The person's job duties and responsibilities, including decision-making authority, policy-making authority and procedure-making authority, if any;
- d. Any aliases the person has used in connection with employment or affiliation with Respondent; and
- e. The extent of the financial interest held in Respondent by such person or entity at any point.

6. Describe in detail the computer software used to store data about "customers" of Respondent, and the items of information which can be retrieved about each customer. "Identify" all custodians of such computer records with specific locations for the data stored.

7. "Identify" all federal, state, and/or local law enforcement authorities who have raised any complaint or concern relating to Respondent's business practices or compliance with any laws, rules or regulations including, but not limited to finance laws, foreign corporation laws, revenue laws, securities laws, consumer protection laws or other laws prohibiting fraudulent, unfair or deceptive practices. Describe the nature and outcome of all investigations or enforcement actions.

8. State whether Respondent, or any of Respondent's employees, agents, representatives, officers, directors, partners, assignors, successors or assigns have ever been a party in a civil or criminal legal proceeding relating to Respondent's business practices. If so, include the "identity" of the entity or person who was a party, the date, forum and forum location, the docket number, the nature of the proceeding and the disposition.

9. Provide a list of Iowa consumers who entered into a written or oral agreement with the Respondent for Respondent's services or made any payment for Respondent's services. For each such Iowa consumer please provide:

- a. Full name as shown in the Respondent's records;
- b. Address;
- c. Property Address (if different from mailing address);
- d. Telephone number(s);
- e. Whether the Respondent first contacted the consumer or the consumer first contacted the Respondent, and the date of that initial contact;
- f. Date the consumer contracted with the Respondent for services;

- g. Total dollar amount paid by the consumer to the Respondent;
- h. Specific dates and dollar amounts of each payment, which should add up to the amount set forth above in "g". (For example, \$100 was paid on a certain date, \$400 was paid on another date, etc.);
- i. Copies of all the documents each consumer received, including but not limited to, contracts, agreements, instruction sheets, checklists, enrollment forms, authorization forms, financial worksheets, disclosure forms, legal documents, and other documents;
- j. Copies of all the documents the Respondent sent or filed on the consumer's behalf, including but not limited to, attempts to negotiate reduced mortgage payments, transfer title, etc.;
- k. Any benefit the Respondent believes the consumer received, including but not limited to, lower mortgage payments, loan modifications, refinancing, debt cancellation, household preservation, real property sale, foreclosure/forfeiture/tax sale cancellation, etc. (Include the specific dollar amount(s) and a detailed calculation of how you arrived at that dollar amount.); and
- l. Copies of any documents that show the consumer received the benefit listed in Document Request No. 9(k), including but not limited to, correspondence from lenders and loan modification documents.

10. "Identify" all Iowans who have requested a cancellation, or refund or have otherwise complained by telephone, in writing or in any other manner about any aspect of Respondent's advertising, servicing or other business practices. For each person "identified", state the following:

- a. The consumer's full name, address, telephone number; and the account number or the address of the subject property if different from the consumer's current address;
- b. The date of the contact, whether it was oral, in writing or by some other means of communication;
- c. The "identity" of Respondent's employee(s) or agent(s) with whom the consumer talked, corresponded or otherwise had contact, and the "identity" of all employee(s) or agent(s) who participated in handling the complaint, and the role of each person in connection with the complaint;
- d. The basis for and substance of the complaint;
- e. The dollar amount of the refund requested, if any, and the amount of refund paid, if any;

- f. The resolution or disposition of the complaint, including but not limited to, any refund that was made;
- g. A detailed description of any investigation conducted by Respondent or others on Respondent's behalf relating to the complaint;
- h. A detailed description of any disciplinary or corrective action taken by or against Respondent relating to the complaint; and
- i. Provide a copy of each complaint with supporting documents.

11. State the amount that is typically charged to Iowa consumers for Respondent's services. If the charge varies based on the consumer, please provide a detailed explanation of the criteria used to determine the amount charged.

12. State whether Respondent demands or collects any fees, charges, deposits or other payments from Iowa consumers before Respondent provides any services.

13. If Respondent does demand or collect any fees, charges, deposits or other payments before Respondent provides any services, provide the time frame during which Respondent demanded or collected these payments from Iowa consumers.

14. State whether Respondent takes a wage assignment, a lien of any type on real or personal property, or other security to secure the payment of compensation by Iowa consumers.

15. If Respondent does take wage assignments, liens of any type on real or personal property, or other securities to secure the payment of compensation by Iowa consumers, provide the time frame during which Respondent took these security interests.

16. State whether Respondent receives any payment from any third party in connection with services rendered to an Iowa consumer.

17. If Respondent does receive any payment from any third party in connection with services rendered to Iowa consumers, provide the time frame during which Respondent received these payments.

18. State whether Respondent ever acquires an interest, directly or indirectly, or by means of a subsidiary or affiliate in a residence in foreclosure from an Iowa consumer with whom the Respondent has contracted.

19. If Respondent does ever acquire an interest, directly or indirectly, or by means of a subsidiary or affiliate in a residence in foreclosure from an Iowa consumer with whom the Respondent has contracted, provide the time frame during which Respondent has made the practice of acquiring these interests.

20. State whether Respondent ever takes a power of attorney from an Iowa consumer.

21. If Respondent does take a power of attorney from Iowa consumers, state the reason for the power of attorney and the purpose for which it is used.

22. If Respondent does take a power of attorney from Iowa consumers, provide the time frame during which Respondent has made the practice of taking a power of attorney.

23. State whether it is the practice of the Respondent to discourage or prohibit an Iowa consumer from contacting any lender, servicer, government entity, attorney, counselor, individual, or company that may seek to help the consumer.

24. If Respondent does discourage or prohibit an Iowa consumer from contacting a third party for assistance, state the reason why Respondent discourages or prohibits this contact.

25. If Respondent does discourage or prohibit an Iowa consumer from contacting a third party for assistance, provide the time frame during which Respondent has made the practice of discouraging consumer contact with a third party.

DOCUMENT REQUESTS

Attach the following documents, and for each document attached, state the time period during which the Respondent used the document:

1. Provide representative examples of all solicitations or advertisements sent to Iowa consumers promoting Respondent's services. Your response should include all documents in any form, written or electronic, including but not limited to all letters, postcards, faxes, e-mail, television advertisements, radio advertisements, newspaper advertisements, internet web sites or other form of solicitation or advertisement. (Reminder: Provide the time frame during which each solicitation or advertisement was used by Respondent.)
 2. Provide a copy of each telephone script Respondent uses, has used, or which has been used on behalf of Respondent, to solicit "customers." (Reminder: Provide the time frame during which each script was used by Respondent.)
 3. Provide representative copies of all the documents that Respondent sends to each Iowa consumer, including but not limited to, contracts, agreements, instruction sheets, checklists, enrollment forms, authorization forms, financial worksheets, disclosure forms, legal documents, and other documents. (Reminder: Provide the time frame during which each document was used by Respondent.)
 4. To the extent they are not included in your response to Document Request No. 3, provide representative copies of all documents Iowa consumers are asked to sign, initial, fill out or in any other manner provide any information and return to Respondent. (Reminder: Provide the time frame during which each document was used by Respondent.)
 5. To the extent they are not included in your response to Document Requests Nos. 3 and 4, provide representative copies of all of Respondent's internal documents used in providing services to Iowa consumers, including but not limited to, contracts, agreements, instruction sheets, checklists, financial worksheets, legal documents, and other documents. (Reminder: Provide the time frame during which each document was used by Respondent.)
 6. Provide a copy of the Respondent's Articles of incorporation, corporate by-laws and amendments thereto.
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7. Provide an annual corporate reports filed with the Secretary of State in the state of incorporation since January 1, 2007.
 8. Provide a copy of each certificate of authority, license, certification or permit issued by any local, state and/or federal governmental subdivision to authorize Respondent to conduct any type of business in the state of Iowa.
 9. Provide a representative sample of a computer printout illustrating all items of information stored on "customers" by or on behalf of Respondent.

**REMINDER: RESPONSES ARE DUE BY THE 21st DAY FROM THE DATE
THAT RESPONDENT RECEIVED THIS CIVIL INVESTIGATIVE DEMAND.**

Respondents are required to attach to the written responses and documents produced a verification under oath in substantially the following format:

OATH OF RESPONDENT

State of _____)
County of _____) ss:

I, _____, being first duly sworn upon oath, state under penalty of perjury that I am the _____ (title) of Respondent, _____. I have read the responses to the Civil Investigative Demand and have reviewed the documents produced. The responses are true and accurate to the best of my knowledge and belief, and the documents produced are either the originals or true and accurate copies of the documents requested.

For _____

Signed and sworn to before me this _____ day of _____, 2009 by

_____ as _____ (title) of Respondent, _____.

Notary Public in and for
the State of _____

Kim, Julia [AG]

From: Kim, Julia [AG]
Sent: Friday, February 13, 2009 2:48 PM
To: 'info@helpnowalliance.org'
Subject: Attn: Mark Roberts – Re: Iowa Attorney General's Civil Investigative Demand and Notice of Intent to Proceed

Dear Mark:

Thank you for your telephone call today regarding the Iowa Attorney General's Civil Investigative Demand and Notice of Intent to Proceed, issued to Homeownership Protection Education Alliance, Inc. ("Homeownership") on February 6, 2009. You stated that Homeownership applied for non-profit status some time in July of 2008, and as a result, you believed that Homeownership was exempt from Iowa Code sections 714E.1 through 714E.9.

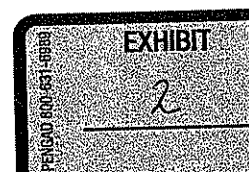
Iowa Code 714E.1(3)(b)(10) states that "Foreclosure consultant" does not include any of the following:

"(10) A nonprofit agency or organization that offers counseling or advice to an owner of a residence in foreclosure or loan default if the nonprofit agency or organization does not contract for services with for-profit lenders or foreclosure purchasers." (emphasis added).

Thus, even if we assume that Homeownership is a nonprofit organization after review of your application and other documentation for non-profit status, Homeownership must also provide documentation that it "does not contract for services with for-profit lenders or foreclosure purchasers." If Homeownership is unable to provide such documentation, Homeownership would be considered a "foreclosure consultant."

Regardless of the "foreclosure consultant" issue, the demand for information is premised on reviewing Homeownership's business practices to determine whether it violated, or is violating the Iowa Consumer Fraud Act. Accordingly, please proceed with complying with the Attorney General's demand for information.

Regards,
Julia Kim
Assistant Attorney General
Hoover State Office Building, Second Floor
Des Moines, Iowa 50319



Kim, Julia [AG]

From: Clent Service [info@helpnowalliance.org]
Sent: Tuesday, February 24, 2009 8:04 AM
To: Kim, Julia [AG]
Subject: RE: Attn: Mark Roberts -- Re: Iowa Attorney General's Civil Investigative Demand and Notice of Intent to Proceed

Julia We did not forget about you and your request. I told the board about what you needed. The attorney is gathering the requested information. Thanks

From: Kim, Julia [AG] [mailto:jkim@ag.state.ia.us]
Sent: Friday, February 13, 2009 3:48 PM
To: info@helpnowalliance.org
Subject: Attn: Mark Roberts -- Re: Iowa Attorney General's Civil Investigative Demand and Notice of Intent to Proceed

Dear Mark:

Thank you for your telephone call today regarding the Iowa Attorney General's Civil Investigative Demand and Notice of Intent to Proceed, issued to Homeownership Protection Education Alliance, Inc. ("Homeownership") on February 6, 2009. You stated that Homeownership applied for non-profit status some time in July of 2008, and as a result, you believed that Homeownership was exempt from Iowa Code sections 714E.1 through 714E.9.

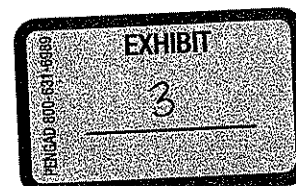
Iowa Code 714E.1(3)(b)(10) states that "Foreclosure consultant" does not include any of the following:

"(10) A nonprofit agency or organization that offers counseling or advice to an owner of a residence in foreclosure or loan default if the nonprofit agency or organization does not contract for services with for-profit lenders or foreclosure purchasers." (emphasis added).

Thus, even if we assume that Homeownership is a nonprofit organization after review of your application and other documentation for non-profit status, Homeownership must also provide documentation that it "does not contract for services with for-profit lenders or foreclosure purchasers." If Homeownership is unable to provide such documentation, Homeownership would be considered a "foreclosure consultant."

Regardless of the "foreclosure consultant" issue, the demand for information is premised on reviewing Homeownership's business practices to determine whether it violated, or is violating the Iowa Consumer Fraud Act. Accordingly, please proceed with complying with the Attorney General's demand for information.

Regards,
Julia Kim
Assistant Attorney General
Hoover State Office Building, Second Floor
Des Moines, Iowa 50319



Kim, Julia [AG]

From: Clent Service [info@helpnowalliance.org]

Sent: Tuesday, March 10, 2009 6:48 PM

To: Kim, Julia [AG]

Subject: RE: Attn: Mark Roberts -- Re: Iowa Attorney General's Civil Investigative Demand and Notice of Intent to Proceed

Hi Julia, I don't get to make those decisions. The board says we are too busy and that's what we have attorneys for anyway. Anyway it was nice talking with you. Here is the information you requested:
Mark

David F. Chalela, Esq.
The Law Offices of David Chalela, P.A.
3111 W. MLK Blvd, Suite 100
Tampa, FL 33607
(813) 368-0822
(813) 350-7801 (fax)

From: Kim, Julia [AG] [mailto:jkim@ag.state.ia.us]

Sent: Tuesday, March 10, 2009 6:09 PM

To: Clent Service

Subject: RE: Attn: Mark Roberts -- Re: Iowa Attorney General's Civil Investigative Demand and Notice of Intent to Proceed

Dear Mark:

Thank you for the update. It appears from your e-mail that you now have an attorney representing Homeownership in this matter? If so, could you please provide me with his or her contact information (name, address, telephone number, and e-mail address)? I would like to touch base with the attorney on this matter.
Thank you.

Regards,
Julia Kim
Assistant Attorney General
Hoover State Office Building, Second Floor
Des Moines, Iowa 50319

From: Clent Service [mailto:info@helpnowalliance.org]

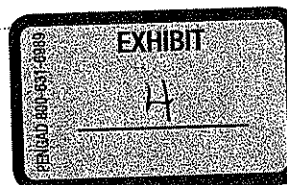
Sent: Tuesday, February 24, 2009 8:04 AM

To: Kim, Julia [AG]

Subject: RE: Attn: Mark Roberts -- Re: Iowa Attorney General's Civil Investigative Demand and Notice of Intent to Proceed

Julia We did not forget about you and your request. I told the board about what you needed. The attorney is gathering the requested information. Thanks

From: Kim, Julia [AG] [mailto:jkim@ag.state.ia.us]



Kim, Julia [AG]

From: Kim, Julia [AG]
Sent: Thursday, March 12, 2009 12:39 PM
To: 'davidchalela@gmail.com'
Subject: Iowa Attorney General's Civil Investigative Demand and Notice of Intent to Proceed

Dear David:

Per our telephone conversation today regarding the subpoena served on Homeownership Protection Education Alliance, Inc. ("Homeownership") dated February 6, 2009, you stated that all requested documents will be produced to us by Friday, March 20, 2009. Given that the requested documents are already past due, please ensure that the documents are produced by the stated date. Please let me know if you have any questions or concerns, my contact information is noted below. Thank you.

Regards,
Julia Kim
Assistant Attorney General
Hoover State Office Building, Second Floor
Des Moines, Iowa 50319
julia.kim@iowa.gov
(515) 281-5926 (phone)
(515) 281-6771 (fax)



DEBT SETTLEMENT LAW GROUP, P.A.
ATTORNEYS AT LAW
13660 WRIGHT CIRCLE
TAMPA, FL 33626
(813) 368-0822

Julia S. Kim
Assistant Attorney General
Consumer Protection Division
1305 East Walnut Street, Second Floor
Des Moines, IA 50319

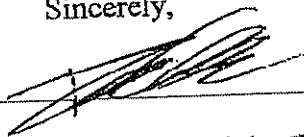
Re: Homeownership Protection Education Alliance, Inc., Investigative Demand

Dear Julia S. Kim:

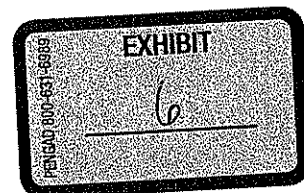
As you are aware, we have been retained by H.O.P.E. Alliance, Inc. in the matter referenced above. Please rest assured my client has in no way violated any laws or guidelines. On the contrary, it provides an extremely valuable service to the American public at this most crucial moment of mortgage crisis. My client has recently suffered from unfair allegations and media attacks. Although it operates under the highest level of professionalism, these unfair attacks at my client's reputation have caused direct economic harm as well as a besmirching of its reputation.

We have reviewed your discovery request, which is sizeable and will require a great dedication of work effort by my client to produce. Compliance with your request will draw resources necessary for my client's daily operations. My client is, of course, willing to respond in full. However, we request that you state with some particularity the basis for your investigation. Your request appears to be a standard one, with no reference to any acts or practices that my client has allegedly violated. In fact, we are unable to discern any basis for the request. In the meantime, in an effort of good faith and to demonstrate my clients' non profit status, please find enclosed a copy of its Form 1023-Application for Recognition of Exemption.

Sincerely,



David F. Chalela, Esq.



Part IV, Narrative Description of Activities

BACKGROUND

Home Ownership Protection Education Alliance, Inc. ("HOPE Alliance") was created to bring together a variety of service providers, to make available education and assistance to homeowners to prevent foreclosure on their home. It will be geared to serving communities with high numbers of foreclosures, and individuals who face foreclosure of their homes, as a result of economic distress often caused by natural disaster such as hurricanes, floods, earthquakes, etc. but also resulting from the volatile economic times that the country is experiencing. HOPE Alliance's goal is to preserve and revitalize communities by preventing foreclosures, allowing neighborhoods to remain intact while families strive to rebuild after natural, or economic, disasters. It is dedicated to bringing awareness to and finding solutions for the growing phenomenon of foreclosure, and to helping foreclosure victims find a viable solution and maintain their homes.

CHARITABLE ACTIVITIES

1. Education of the Public

Educational Classes, Seminars and Lectures for the Public.

Areas hard hit by natural or economic disaster experience increased numbers of foreclosures, which leads to empty homes and buildings, homelessness, increased crime and many other problems that naturally follow. HOPE Alliance intends to prevent such community deterioration by forming an "alliance" of individuals, businesses, lenders, government agencies and private industries to deliver the education, assistance and services needed to save those communities most in need. It will organize various educational opportunities on foreclosure, predatory lending practices and ways to avoid foreclosure in areas of the country most affected by increased numbers of foreclosure.

Initially, HOPE Alliance will identify and focus on the communities hardest hit by, and still recovering from such natural disasters as Hurricanes Andrew and Katrina. It anticipates that it will sponsor local classes at educational institutions, seminars and lectures, to distribute information to people who may be unaware of ways to prevent foreclosure.

HOPE Alliance intends to form an alliance of a variety of service providers which will be available to homeowners reaching out for assistance, and depending upon the individual situations, HOPE Alliance will spearhead and organize efforts to bring the necessary services to those facing foreclosure.

Radio Outreach

HOPE Alliance is currently working on a call-in radio program for Hispanic communities in southern Florida, which will air on a Spanish-speaking station, during which volunteers from HOPE Alliance will be available to take calls from the public to answer questions about foreclosure, foreclosure prevention, and loan modification, for example. As funding becomes available, HOPE Alliance anticipates that it will be able to expand this type of programming to reach other communities with high rates of foreclosure, throughout the country.

Newsletters

HOPE Alliance is in the process of preparing a monthly newsletter that will be distributed electronically to homeowners who contact HOPE Alliance for information relating to foreclosure and loan modification, for example. Such educational information will focus on ways to avoid foreclosure and for those already in foreclosure, to prevent the foreclosure.

2. Assistance to Low Income and Financially Distressed Individuals

HOPE Alliance offers low income and financially distressed individuals who are facing foreclosure with personalized assistance, support and education to understand the process and the options available in a foreclosure situation. HOPE Alliance also assists such individuals in their relationship with their mortgage lender, to achieve a loan modification which will reduce the likelihood of foreclosure. HOPE Alliance offers a sliding scale on the fees that it charges, based upon income and ability to pay, so that low income individuals would be eligible for no fee, or reduced fee, services depending upon the individual's circumstances. While HOPE Alliance does not offer credit counseling to individuals, instead focusing only on foreclosure prevention, it does encourage individuals to pursue educational opportunities that focus on critical thinking and life skills, enabling homeowners to avoid foreclosure situations in the future.

By preventing foreclosures, through education of the communities and assistance to the individuals in the foreclosure process, HOPE Alliance intends to preserve and revitalize those communities and ultimately to assist with recovery and preservation of those neighborhoods. The program's ultimate goal, to keep people in their homes and to stabilize neighborhoods, will be achieved by transitioning resources from lenders, the government, consumer outreach programs and other providers, to those most in need and by providing the education and backup support to the public to ensure success with those resources.

**Part V, Compensation & Financial Arrangements with Officers, Directors,
Trustees, Employees, and Independent Contractors**
Question 3a, Qualifications and Duties of Officers and Directors

Officers & Directors

Marianne Brayshaw, President and Director

Qualifications: B.A. in Accounting and Bookkeeping
Avg. Hrs. Worked: 10 hrs./wk.
Duties: General oversight & governance of organization

Judy Forbes, Treasurer and Director

Qualifications: Certified Loss Mitigation Negotiator
Avg. Hrs. Worked: 3 hrs./wk.
Duties: General oversight & governance of organization

Jason Nadler, Clerk and Director

Qualifications: Information Technology Specialist
Avg. Hrs. Worked: 3 hrs./wk.
Duties: General oversight & governance of organization

**Part V, Compensation & Financial Arrangements with Officers, Directors,
Trustees, Employees, and Independent Contractors
Question 8a, Leases, Loans Or Other Agreements with Officers and Directors**

HOPE Alliance does not have any leases or loans with its officers or directors. Please see the response to Part V, Question 7a for other agreements with officers and directors.

Part VI, Members and Other Individuals and Organizations Receiving Benefits
Question 1a, Goods, Services or Funds to Individuals

As described in the Narrative Description of Activities in Part IV, HOPE Alliance will provide services to individuals, especially those who are low income and/or financially distressed, to assist them in the foreclosure process to avoid losing their homes, and to educate individuals on foreclosure and the options available to avoid or reduce the likelihood of foreclosure. Its educational activities will also be geared to individual homeowners in distressed neighborhoods and communities.

Part VI, Members and Other Individuals and Organizations Receiving Benefits
Question 1b, Goods, Services or Funds to Organizations

As described in the Narrative Description of Activities in Part IV, HOPE Alliance will be involved in educational programming including classes, seminars and lectures, and a planned radio show, and providing educational materials to communities and organizations in areas hard hit by natural disasters or financial hardship, to prevent foreclosures of homes resulting in deteriorating communities and neighborhoods. HOPE Alliance does not anticipate providing its services or activities directly to organizations, but does anticipate that some community based organizations may participate in, and/or benefit from, various activities sponsored or run by HOPE Alliance.

Part VIII, Specific Activities

Question 4a, Description of Fundraising Programs

HOPE Alliance will raise funds from the general public via mail, telephone, email, personal solicitations, website donations, foundation grant solicitations and government grant solicitations.

The organization does not as yet have a formalized fundraising program nor has it hired a professional fundraiser at this time, though it may do so in the future. The organization will submit grant proposals and requests to foundations, agencies and individuals interested in funding its charitable and educational activities.

Question 4d, Fundraising States and Local Jurisdictions

The fundraising activities of HOPE Alliance will be conducted primarily in Florida and also in Wyoming by the directors of the organization. The organization may also conduct fundraising activities in other US states as it develops its activities and programs and as funding becomes available.

Part VIII, Specific Activities
Question 10, Intellectual Property Rights

HOPE Alliance anticipates that after its programs are developed and implemented, it may prepare and publish educational literature or other information which will constitute its intellectual property. All such literature, publications and/or other documents or program materials, and all legal rights in and to such materials, will be and will remain the property of HOPE Alliance and it will own any copyrights, patents, or trademarks that result from such materials. It may charge fair market value or less for use of these materials, and any proceeds generated by such fees will remain with the organization to support its stated charitable activities.

Kim, Julia [AG]

From: Kim, Julia [AG]
Sent: Thursday, March 19, 2009 5:31 PM
To: 'davidchalela@gmail.com'
Subject: Homeownership Protection Education Alliance, Inc.

Dear David:

I am in receipt of your letter and attachment, which appears to be a portion of Homeownership's Form 1023 Application for Recognition of Exemption, faxed to our office today. In your letter, you request that we "state with some particularity the basis for [our] investigation." Our office has received information and complaints regarding Homeownership which makes it appear that Home Ownership has engaged or is engaging in practices that violate the Iowa Consumer Fraud Act while offering, providing or contracting to provide mortgage foreclosure rescue or other assistance or relief in relation to pending foreclosures. Based on the information, the Attorney General believes it to be in the public interest to further investigate.

As you may be aware, the Attorney General may investigate a respondent when the Attorney General "believes" that the Consumer Fraud Act may have been violated, and is not required to establish "reasonable cause" before the AG can initiate an investigation. State of Iowa ex re. Thomas J. Miller v. Smokers Warehouse Corp., 737 N.W.2d 107, 112 (Iowa 2007). Moreover, the Attorney General's power to issue a subpoena has been analogized to agency investigations, where the "power of inquisition" depends not on a case or controversy, but to merely investigate on "suspicion [that] the law is being violated, or even just because it wants assurance that it is not." State of Iowa v. Publisher's Clearing House, 633 N.W.2d 732, 737 (Iowa 2001) (quoting U.S. v. Morton Salt Co., 338 U.S. 632, 642-43 (1950)). Indeed, it may be that Homeownership did not and does not violate any laws or guidelines, as you assert in your letter, but we cannot make any assessment one way or the other, unless and until we receive and review the documents requested.

As for Homeownership's alleged non-profit status, as I previously explained to your client prior to your representation, such status is not relevant in the context of the present subpoena. See e-mail to Mark Roberts dated February 13, 2009 (noted below). The demand for information is premised on reviewing Homeownership's business practices to determine whether it violated, or is violating the Iowa Consumer Fraud Act.

Homeownership's alleged non-profit status would be relevant under Iowa Code sections 714E.1 through 714E.9, which provides that foreclosure consultants may not take or ask for money until it has completely finished doing everything it said it would do, that is, no longer allows advanced payments. Iowa Code 714E.1(3)(b)(10) states that "Foreclosure consultant" does not include:

"(10) A nonprofit agency or organization that offers counseling or advice to an owner of a residence in foreclosure or loan default if the nonprofit agency or organization does not contract for services with for-profit lenders or foreclosure purchasers." (emphasis added).

So even in the context of Iowa Code sections 714E.1 through 714E.9, there is no indication, after review of the provided portion of Homeownership's Form 1023 Application for Recognition of Exemption that Homeownership "does not contract for services with for-profit lenders or foreclosure purchasers." Thus, even if we were to assume that Homeownership is a non-profit organization, that alone would not be sufficient to exempt it under Iowa Code 714E.1(3)(b)(10). But, again, given that the subpoena is issued under the Iowa Consumer Fraud Act, the non-profit status is not relevant in context of complying with the subpoena.

As an aside, I must express my concern over the timing of your letter, given that during our telephone conversation last Thursday, March 12, 2009, and e-mail on that same day memorializing our discussion, you stated that all requested documents would be sent to our office by tomorrow, March 20, 2009. I can appreciate the resources that the subpoena may "draw" for your client, but Homeownership had over a month thus far to



comply. I do appreciate your client's "willing[ness] to comply in full," but the documents requested are long over due. If you are seeking another extension, please let me know when you can produce all requested information, otherwise, I will seek all available relief set forth in Iowa Code 714.16(6), including but not limited to, an order from the court to compel compliance.

Regards,
Julia Kim
Assistant Attorney General
Hoover State Office Building, Second Floor
Des Moines, Iowa 50319
julia.kim@iowa.gov
(515) 281-5926 (phone)
(515) 281-6771 (fax)

From: Kim, Julia [AG]
Sent: Friday, February 13, 2009 2:48 PM
To: 'info@helpnowalliance.org'
Subject: Attn: Mark Roberts -- Re: Iowa Attorney General's Civil Investigative Demand and Notice of Intent to Proceed

Dear Mark:

Thank you for your telephone call today regarding the Iowa Attorney General's Civil Investigative Demand and Notice of Intent to Proceed, issued to Homeownership Protection Education Alliance, Inc. ("Homeownership") on February 6, 2009. You stated that Homeownership applied for non-profit status some time in July of 2008, and as a result, you believed that Homeownership was exempt from Iowa Code sections 714E.1 through 714E.9.

Iowa Code 714E.1(3)(b)(10) states that "Foreclosure consultant" does not include any of the following:

"(10) A nonprofit agency or organization that offers counseling or advice to an owner of a residence in foreclosure or loan default if the nonprofit agency or organization does not contract for services with for-profit lenders or foreclosure purchasers." (emphasis added).

Thus, even if we assume that Homeownership is a nonprofit organization after review of your application and other documentation for non-profit status, Homeownership must also provide documentation that it "does not contract for services with for-profit lenders or foreclosure purchasers." If Homeownership is unable to provide such documentation, Homeownership would be considered a "foreclosure consultant."

Regardless of the "foreclosure consultant" issue, the demand for information is premised on reviewing Homeownership's business practices to determine whether it violated, or is violating the Iowa Consumer Fraud Act. Accordingly, please proceed with complying with the Attorney General's demand for information.

Regards,
Julia Kim
Assistant Attorney General
Hoover State Office Building, Second Floor
Des Moines, Iowa 50319

THOMAS J. MILLER
ATTORNEY GENERAL



CONSUMER PROTECTION DIVISION

Address Reply To:
Hoover Bldg., 1305 E. Walnut
Des Moines, Iowa 50319
Telephone: 515-281-5926
Toll Free: 888-777-4590 (In Iowa)
Fax: 515-281-6771
www.IowaAttorneyGeneral.org

Department of Justice

VIA E-Mail and Facsimile

David F. Chalela
Debt Settlement Law Group, P.A.
13660 Wright Circle
Tampa, FL 33626
Fax: (813) 350-7801

April 6, 2009

Dear David:

It has been over two weeks since our last correspondence and I have not heard anything from you regarding the progress of your client's document collection/responding to the inquiries nor a request for another extension. As you are aware, our office issued the Civil Investigative Demand to Homeownership on February 6, 2009, and Homeownership has already had almost two months to comply. Please note that the subpoena provided Homeownership with 21 calendar days to comply in full after receipt of the Civil Investigative Demand. The information and the documents requested are long overdue.

As our last effort to resolve this matter without court intervention, Homeownership must fully comply with the Civil Investigative Demand by Thursday, April 30, 2009. If our office does not receive all the information requested in the "Inquiries" portion and all the documents requested in the "Document Requests" portion of the Civil Investigative Demand by April 30, 2009, we will seek an injunction to restrain Homeownership from conducting any sales or advertisements in the State of Iowa, an order compelling compliance, and reimbursement of the costs of such action as set forth in Iowa Code section 714.16(6).

Sincerely,


Julia S. Kim

